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COMMITTEE ON THE ELIMINATION
OF RACIAL DISCRIMINATION

REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 9
OF THE CONVENTION

Fifteenth periodic reports of States parties due in 1998

Addendum

Spain*

[2 July 1998]

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* This document contains the fourteenth and fifteenth periodic reports, submitted in one document, due on 4 January 1996 and 1998. For the thirteenth periodic report of Spain and the summary records of the meetings at which the Committee considered that report, see documents CERD/C/263/Add.5 and CERD/C/SR.1145.

The annexes submitted by Spain may be consulted in the Secretariat's files.

The information submitted by Spain in accordance with the consolidated guidelines for the initial part of the reports of States parties is contained in the core document, HRI/CORE/1/Add.2/Rev.2.

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CONTENTS

		Paragraphs	Page
Introduction		1 - 10	3
I.	GENERAL	11 - 12	4
II.	INFORMATION RELATING TO ARTICLES 2 TO 7 OF THE CONVENTION	13 - 49	4
	Article 2	13 - 25	4
	Article 3	26 - 27	7
	Article 4	28 - 32	7
	Article 5	33 - 36	9
	Article 6	37 - 46	11
	Article 7	47 - 49	12
III.	INFORMATION RELATING TO THE COMMITTEE'S CONCLUDING OBSERVATIONS	50 - 70	13
	A. Positive aspects	50 - 52	13
	B. Principal subjects of concern	53 - 69	14
	C. Suggestions and recommendations	70	16
List of annexes			17

Introduction

1. As Spain appeared before the Committee on the Elimination of Racial Discrimination on 7 and 8 March 1996, the information included in this fourteenth periodic report will in principle be limited to activities conducted from that date to the present and an effort will be made to avoid referring to dates, legislation and documents with which the Committee is already familiar.

2. Although there have been no major legislative changes since Spain's submission of its last periodic report and the Committee's consideration of it, at which time the main changes were discussed, at the practical level, a number of activities have been carried out in the past two years in the form of initiatives and programmes by the different ministries and other government bodies to combat racism and racial discrimination.

3. The inclusion in the new Criminal Code of a set of articles on this question, which were examined earlier, laid the legislative groundwork for the prosecution of various offences involving discrimination, hatred and violence against individuals or groups of other ethnic origins.

4. The strengthening of the Criminal Code with a view to the prosecution of these types of acts has had a positive impact in determining the guilt of persons who take part in them, but, unfortunately, has not resulted in a significant decrease in the kinds of offences in question, much less their eradication, which would in any event be a totally Utopian goal.

5. Although the Defender of the People has noted a general increase in juvenile violence, which may include attacks on foreigners by extremist groups and gangs, the statistics provided for 1997 by the General Commissariat for Information, a branch of the General Directorate of Police, concerning acts reported to the police indicate a decrease in racist and xenophobic activity in comparison with 1996.

6. Without prejudice to the foregoing, it should be borne in mind that, in social terms, the words "racist" and "xenophobic" are becoming distorted in meaning and even losing their force and such a distortion, which is intentional in some cases, can at times make it difficult to collect reliable statistics.

7. Among the factors that might have a bearing on the decrease in racist activity is the fact that racism in Spain is as yet more occasional than organized in nature, although activities by more or less structured or marginal groups associated with far-right movements are beginning to be seen.

8. Increased social awareness resulting from several campaigns conducted by both public and private institutions (especially during 1997, the European Year against Racism), the greater effectiveness of government initiatives and more efficient police work have undoubtedly played a role in curbing racist acts.

9. At the risk of oversimplifying, it may generally be said that there are two main sources of racism and xenophobia in Spain: one is of an ongoing

nature and is linked to the skinhead movement, located mainly in the large cities; the other is more spontaneous and occurs when some social or labour-related problem arises and takes on racist overtones when immigrants or gypsies are involved; such problems are very frequently caused by or connected with labour issues.

10. Mention should also be made of society's negative reaction to racist manifestations, which has caused groups or associations whose ideological tenets include racist ideas to tone down their positions in order to avoid rejection.

I. GENERAL

11. During the consideration of the report in 1996, an overview was provided of the general political structure in Spain and the general legal framework within which human rights are protected, in accordance with the international agreements to which Spain is a party. Rather than repeat this information, we have attached updated information provided by the National Statistics Institute and consisting of data on the composition of the population of Spain (annex 1).

12. Also attached are the statutes of the Autonomous Communities and documentation provided by the Ministry of Public Administration concerning areas of conflict between the State and the Autonomous Communities, objections to jurisdiction, absolute conflicts of jurisdiction and actions of unconstitutionality in recent years, as requested by the Committee during its consideration of the last report (annex 2).

II. INFORMATION RELATING TO ARTICLES 2 TO 7 OF THE CONVENTION

Article 2

13 Spain has condemned racial discrimination not only in its statements in various international bodies, but through its criminal legislation and its Constitution, the texts of which have been provided to the Committee, and has committed itself to pursuing a policy based on the equality of all individuals without distinction of any kind on the grounds of sex, ethnic group, religion, opinion or any other personal or social condition or circumstance (Constitution, art. 14 relating to Spaniards).

14. Article 13 of the Constitution stipulates that aliens in Spain enjoy the same rights and freedoms guaranteed by the Constitution to Spaniards, under the terms which treaties and laws may establish, except for the political right to take part in public affairs (Constitution, art. 23), with the exception of such provisions as may be established, on the basis of criteria of reciprocity, by treaty or law concerning the right to vote in municipal elections (Organization Act of 19 July 1985 on the General Electoral Regime, art. 176). With regard to elections and the right to vote, there are various exceptions for citizens of member countries of the European Community (see Royal Decree No. 211/93 of 3 December 1993, Ministry of Economic Affairs and Housing Order of 20 December 1993 and Royal Decree No. 157/96 of 2 February 1996).

15. The activities of organizations promoting racial discrimination are considered to be illegal under both the Constitution and the Criminal Code. Article 22 of the Constitution states that associations which pursue purposes or use methods which are classified as crimes are illegal. Article 515 of the Criminal Code regards as punishable unlawful associations, which it defines as those which promote or incite to discrimination, hatred or violence against individuals, groups or associations on grounds of their ideology, religion or beliefs or the fact that all or some of their members belong to a particular ethnic group, race or nation. An obligation not to practise racial discrimination is also established and care is taken to ensure that government authorities and institutions comply with it (see in this connection, Criminal Code, arts. 24 (4), 170, 197, 312, 314, 510, 511, 512, 522, 523, 524, 525 and 607, which establish penalties for those who fail to do so).

16. Another aspect of the State's commitment is its concern to include these principles in the training given primarily to members of the security forces (in this connection, see the reports of the Training and Development Division and the Aliens and Racism Section of the General Directorate of Police and the report of the Civil Guard on training programmes in this area, annex 10).

17. Although there have been no changes in domestic criminal legislation during the period under review, Spain has nevertheless participated quite actively at the community level through the Joint Action of 15 July 1996 adopted by the European Council on the basis of article K.3 of the Treaty on European Union relating to action to combat racism and xenophobia and proposed during Spain's presidency in 1995 (see annex 3).

18. Mention should also be made of the importance of the establishment of a European Monitoring Centre on Racism and Xenophobia with headquarters in Vienna, which is due to begin operation next autumn. Its main objective will be to provide the Community and its member States with objective data on racism, xenophobia and anti-Semitism at the European level, which may be of assistance to them in adopting measures and deciding on activities within their respective areas of competence. Another of its objectives will be to set up and coordinate a European racism and xenophobia information network (RAXEN), the core unit of the Centre, which will cooperate with national university research centres, non-governmental organizations and specialized centres established by organizations in the member States and by international organizations.

19. At the European Union level, mention should be made of the activities carried out by various member States throughout 1997 in celebration of the European Year against Racism 1997. Through its resolution of 23 July 1996, the European Council designated 1997 as the European Year against Racism and set its objectives and the measures to be taken in fulfilment thereof at the community and national levels. At the national level, Governments were called on to implement projects and hold public events in connection with the themes of the European Year and to launch information and publicity campaigns involving cooperation with the media and the organization of competitive events highlighting progress achieved in action to combat racism, xenophobia and anti-Semitism.

20. As soon as the Community resolution was adopted, Spain began arrangements to establish the mechanisms for its implementation (see annex 6, Report on events held to commemorate the European Year against Racism - Spanish Committee - prepared by the Ministry of Labour and Social Affairs).

21. Royal Decree No. 137/97 of 31 March 1997 established the Spanish Committee for the European Year against Racism, chaired by His Majesty the King of Spain. Its functions were:

(a) To further the objectives of the European Year against Racism;

(b) To encourage participation by non-governmental bodies and government agencies in the celebration of the European Year against Racism and the achievement of its objectives;

(c) To support the establishment of regional committees and encourage relations with other national committees.

22. The Committee planned a number of activities which involve ministerial departments with competence in this area and which were divided into two main groups:

(a) Activities of a general nature aimed at informing the people and raising their awareness of the importance of the values of tolerance and respect;

(b) Sectoral activities aimed at specific areas and communities, which focused on the strengthening of action to help immigrants become fully integrated into society.

23. The main activities covered the following areas: information, awareness-raising and dissemination; seminars, conferences and other forums; studies, publications and other printed information; support for the initiatives and programmes of non-governmental organizations and associations; and various other activities. Annex 6 contains a detailed list of the programmes and projects carried out in 1997.

24. Mention should also be made of the future implications of the Treaty of Amsterdam for the members of the European Union, which paves the way for preventive and other types of action to eliminate racism and, in article 13, lays the legal foundations for action to combat racism and racial discrimination.

25. For information on the specific social, economic, cultural and other measures taken to ensure the appropriate development and protection of certain racial groups and their members and to guarantee the full enjoyment of their human rights under conditions of equality, the reader is referred to the reports prepared by the Ministry of Education and Science and the Ministry of Labour and Social Affairs, with special reference to the Gypsy community, which is the largest (annexes 7 and 14).

Article 3

26. Spain's Constitution and its criminal legislation unequivocally condemn racial segregation. The Constitution proclaims the equality of all before the law (art. 14) and the criminal legislation establishes penalties for persons who commit acts involving the advocacy of racial segregation (annex 4).

27. In this connection, although the Committee received copies of the relevant articles of the Criminal Code in 1996, a brief summary of them is provided below (annex 4):

(a) Under article 22, the circumstances aggravating criminal responsibility include the commission of an offence for reasons involving racism, anti-Semitism or any other kind of discrimination;

(b) Article 17 refers to threats against ethnic groups;

(c) Articles 312 and 314 on offences against the rights of workers refer to the recruitment of foreign nationals without work permits under conditions which violate their rights and to the serious offence of discrimination in employment on grounds which include membership in an ethnic group, race or nation;

(d) Article 510 refers to incitement to discrimination;

(e) Article 511 concerns the denial of services for racist reasons by an individual holding a public service position;

(f) Article 512 relates to the denial of services for racist reasons by an individual in the exercise of professional or business activities;

(g) Articles 522, 523, 524 and 525 relate to offences against freedom of conscience;

(h) The most fundamental article in this area is article 607 relating to the crime of genocide.

Article 4

28. A brief reference has already been made to the legislative measures adopted to eliminate racial discrimination, especially incitement to racial discrimination (Criminal Code, art. 510), and all acts of violence or incitement to commit violence (Criminal Code, art. 170). It was also stated earlier that the Constitution and laws of Spain regard as illegal organizations which promote discrimination, hatred or violence based on membership in an ethnic group, race or nation (art. 22 of the Constitution in conjunction with art. 515 of the Criminal Code). Article 520 of the Criminal Code stipulates that the courts and tribunals may dissolve unlawful associations under the circumstances provided for in article 515. As we can see, associations may be dissolved only by a court order. According to article 539 of the Criminal Code, any authority or public official who dissolves or suspends the activities of a legally established association without a prior court order, or who prevents it from holding its meetings

in the absence of a legitimate reason is liable to specific disqualification for public employment or public office for eight to 12 years and to a 6 to 12-month fine.

29. According to information provided by the Technical Under-Secretariat of the Ministry of the Interior, which oversees the Associations Register (see annex 9), in order for an association to be entered in the Register, it is required under Spanish law to submit a certificate containing the names of the individuals who are proposing to form the association and the statutes by which it will be governed, which, in addition to other legal conditions stipulated, must include the following:

(a) Name, which may not be the same as that of other associations already registered or so similar as to lead to confusion;

(b) Lawful and specific aims;

(c) Principal and any other places of business;

(d) Area covered by the association's activities;

(e) Governing bodies and type of administration;

(f) Procedure for admission to and loss of membership;

(g) Rights and duties of members;

(h) Start-up capital, expected financial resources and level of annual budget;

(i) Allocation of the association's assets in case of dissolution.

30. As part of the powers conferred on it to investigate associations prior to registration, the National Associations Register may submit any statutes containing allegedly criminal goals to the Office of the Attorney-General. No such cases have occurred in the last two years, the period covered by this report. In addition, no registered association has ever been removed from the list on grounds of activities with racist connotations. We should like to repeat that, in accordance with article 22 of the Constitution and articles 515 and 520 of the Criminal Code, duly registered associations may be removed or suspended only at the request of the persons involved or by a court order containing a statement of the reasons.

31. It is considered that article 4 (a) and (b) of the Convention are covered by article 510 of the Criminal Code, which states that "Anyone who incites to discrimination, hatred or violence against groups or associations for reasons of racism, anti-Semitism or other reasons relating to ideology, religion or belief, on the grounds of the fact that its members belong to a particular ethnic group or race or on the grounds of their national origin shall be liable to a one to three years' imprisonment and a 6 to 12-month fine". Moreover, "The same penalty shall apply to anyone who knowingly or with reckless disregard disseminates false information that is offensive to

groups or associations for reasons relating to their ideology, religion or beliefs, to the fact that their members belong to a particular ethnic group or race or to their national origin."

32. With regard to article 4 (c), the Criminal Code states:

"1. Any individual holding a public service position who denies another a service to which he is entitled for reasons relating to his ideology, religion or beliefs, to his membership in a particular ethnic group or race or to his national origin shall be liable to six months' to two years' imprisonment and a 12 to 24-month fine and specific disqualification for public employment or public office for a period of one to three years.

2. The same penalties shall be applicable when the acts are committed against an association, foundation, society or corporation or their members for reasons relating to their ideology, religion or beliefs, to the fact that all or some of their members belong to a particular ethnic group or race or to their national origin.

3. Public officials who commit any of the acts referred to in this article shall be liable to the higher range of the same penalties and to specific disqualification for public employment or public office for a period of two to four years."

Article 5

33. As stated earlier, the right to equality before the law is covered in article 14, title I, of the Constitution, on basic rights and duties.

34. Article 13 grants foreigners the same rights as Spaniards, with the exception of the rights recognized in article 23 of the Constitution (right to take part in public affairs and right to have equal access to public service, in accordance with the requirements established by law). In connection with this article, the reader is referred to the earlier discussion of the rights granted to citizens of member States of the European Union.

35. Generally speaking, apart from the provisions relating to nationals of European Community countries, article 5 of Organization Act No. 7/85 stipulates: "Aliens shall not enjoy political rights, i.e. the right to vote and stand for office or the right to accede to public functions or functions which involve the exercise of authority." As stated earlier, however, resident foreigners may be granted the right to vote in municipal elections under the terms and conditions which, on the basis of criteria of reciprocity, are established by treaty or law for Spaniards residing in the foreigners' countries of origin (Royal Decrees Nos. 2118/93 of 3 December 1993 and 157/96 of 2 February 1996, see annex 5 bis).

36. The remaining rights provided for in article 5 of the Convention are guaranteed by title I of the Constitution, article 4 of Organization Act No. 7/1985 and the preliminary chapter of the regulations giving effect to the Act (both instruments are included in the attached documentation, annex 5). The following specific rights are recognized:

(a) All foreigners, regardless of their administrative status in Spain:

(i) Are equal to Spaniards before the law;

(ii) Enjoy the same human rights under the same conditions as Spaniards;

(iii) Are entitled to education under the same conditions as Spaniards;

(iv) Are entitled to the assistance of a lawyer (court-appointed, if necessary) and an interpreter in case of detention;

(b) Foreigners legally resident in Spanish territory shall also have the following rights:

(i) The right to freedom of movement throughout the territory and freedom to choose their residence with no restrictions other than those provided for by law or necessary for reasons of public security, which may be ordered by the Ministry of the Interior on a case-by-case basis and which may consist only of periodic appearances before the competent authorities, residence away from border areas or specified population centres or mandatory residence in a particular place;

(ii) The right to freedom of assembly, with the exception that the competent body may prohibit demonstrations or meetings in enclosed premises or in areas of public transit when this may undermine national security or national interests, public order, health or public morality or the rights and freedoms of Spaniards;

(iii) The right to freedom of association under the terms established by law;

(iv) The right to establish and run educational institutions, in accordance with the provisions in force and based on the principle of reciprocity;

(v) The right to freedom of education;

(vi) The right to freedom to join Spanish trade unions and professional organizations and the right to strike under the same conditions as Spanish workers;

(vii) Social assistance and welfare measures in situations of need;

(viii) Access to health care benefits and services organized by the authorities pursuant to specific legislation;

(ix) **Freedom to found and direct businesses, with the required work permit;**

(x) **The right to exercise liberal professions throughout Spanish territory and to join the relevant professional bodies, subject to compliance with of the procedures specified in the regulations governing each profession.**

(In this connection, see annex 5, prepared by the Sub-Directorate for Aliens, a division of the Ministry of the Interior.)

Article 6

37. Article 24 of the Constitution stipulates that all persons have the right to the effective protection of the courts in the exercise of their rights and legitimate interests and that they may in no case be deprived of the right of defence.

38. Similarly, every person is entitled to an ordinary judge predetermined by law, to the defence and assistance of an attorney, to be informed of the charges against him, to a public trial without undue delay and with all legal guarantees, to use the relevant evidence for his defence, not to be obliged to incriminate himself, not to be obliged to plead guilty and the right to be presumed innocent.

39. As we have noted, no distinction is made between Spaniards and foreigners where the above-mentioned rights are concerned and anyone may apply to the courts for satisfaction or fair compensation for any harm suffered as a consequence of discrimination, pursuant to the relevant articles of the Criminal Code.

40. With regard to the decisions of judicial bodies in cases of racial discrimination, the first point that should be emphasized is the great difficulty involved in detecting such cases, since the offences in question are usually reported as assault rather than as racial discrimination.

41. By way of illustration, see annex 8 bis, the report of the Procurator's Department of the Almería High Court on events which took place in El Ejido against individuals of Moroccan nationality and which resulted in proceedings not for racial discrimination, but for alleged assault, unlawful detention and illegal entry (case No. 1831/97, El Ejido Court No. 1), that are currently in the pre-trial stage, the injured parties having appeared with the lawyers trying the case. The provincial government of Andalucía, which has brought the class action suit, has also appeared.

42. A direct consequence of the foregoing is the fact that the information provided by all of the provincial high courts indicates only six cases of racial discrimination in the Murcia, León, Madrid and Seville High Courts (see annex 8).

43. Despite these difficulties, the Office of the Attorney-General has also provided information on various cases relating to this category of offence (see annex 8 bis), supplied by the Procurator's Departments of the Gerona,

Málaga, Valencia, Alicante, Santa Cruz de Tenerife, Seville, Lugo, Teruel and Almería provincial high courts and the Catalonia High Court of Justice. The information in question highlights the fact that certain offences, such as assault or threats, which may have been committed for racist reasons, are dealt with judicially, in both criminal and procedural terms, on the basis of the resulting injury, so that the underlying motive of racial discrimination, if present, does not appear in the records or statistics of the different Procurator's Departments.

44. Although most of the cases in question relate to the offence of causing injury, some do involve incitement or solicitation to commit racial discrimination (Criminal Code, art. 510) through the sale of books (case No. 5043/97, Examining Court No. 30, Barcelona) or through clandestine publications (case No. 73/96, Lugo Procurator's Department). A particularly serious case was reported by the Procurator's Department of the Teruel High Court and involved proceedings instituted by Examining Court No. 1 in Teruel, case No. 751, in connection with an alleged offence of reckless endangerment (see annex 8).

45. Although the Office of the Defender of the People has noted an increase in juvenile violence, which may include attacks on foreigners by neo-Nazi groups and gangs, it has not been able to intervene in most of these cases, as the issues involved were under investigation by the courts and no proceedings had been instituted for improper action on the part of the Administration (see annex 11).

46. The foregoing information, together with the replies provided by the various provincial high courts and Procurator's Departments show how difficult it is to determine that proceedings which appear to have been instituted for the offence of injury may also involve racist motivations.

Article 7

47. For information on the measures taken to give effect to this article, particularly in the fields of teaching, education and culture, with a view to combating the prejudices which lead to racial discrimination, the reader is referred to annexes 7 and 14, the reports of the Ministry of Education, the Madrid Provincial Education Directorate and the General Directorate for Social Action to Benefit Minors and the Family, a division of the Ministry of Labour and Social Affairs. The latter focuses on the Gypsy community, through training programmes for both pupils and teachers, and awareness-raising campaigns sponsored by the Ministry of Labour and Social Affairs and carried out by non-governmental organizations or in cooperation with international bodies.

48. As part of the celebration of the European Year against Racism 1997, the Spanish Committee planned a series of activities, a list of which is provided in annex 6. Mention should also be made of the European Seminar held in Madrid on 24 and 25 March 1998 with the participation of representatives of various journalists' associations and unions from France, Germany, Ireland, Italy, Portugal, the United Kingdom and Spain on the theme of the "Role of the

Media in Combating Intolerance, Racism and Xenophobia", commissioned by the authorities of the European Union and organized by the Spanish Committee for the European Year against Racism.

49. Two working papers were produced by the Seminar: "The Madrid Declaration" and a set of recommendations to the European Commission. Both documents are found in annex 16. The basic purpose of the first paper is to continue with the objectives set by the designation of 1997 as the European Year against Racism in an effort to achieve the eradication of intolerance, racism and xenophobia in Europe. The recommendations also include the establishment of a data bank specifically for questions relating to racism and xenophobia in order to provide journalists with accurate and reliable information.

III. INFORMATION RELATING TO THE COMMITTEE'S CONCLUDING OBSERVATIONS*

A. Positive aspects

50. With regard to the concluding observations issued by the Committee after its consideration of the last report, particularly in respect of Spain's commitment to make the declaration under article 14, paragraph 1, recognizing the competence of the Committee to receive and consider communications from individuals or groups of individuals within its jurisdiction claiming to be victims of a violation, it should be noted that Spain made the declaration in question and deposited it with the Secretary-General of the United Nations on 13 January 1999, according to information provided by the Ministry of Foreign Affairs.

51. Spain considers it unnecessary to establish a body such as that referred to in article 14, paragraph 2, which states that any State party which makes such a declaration may establish a body within its national legal order which shall be competent to receive and consider such petitions, given the broad civil, criminal and administrative guarantees provided for in Act. No. 62/78 of 26 December 1978 relating to judicial protection of fundamental rights (see photocopy, annex 4) and the possibility of instituting amparo proceedings in the Constitutional Court.

52. Spain's reservation to article 22 of the Convention on recognition of the competence of the International Court of Justice has become a moot point, as a unilateral declaration accepting the jurisdiction of the Court was deposited by Spain on 29 October 1990 and will be adopted formally by cabinet decision and approval by the Cortes.

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* A/51/18, paras. 197-219.

B. Principal subjects of concern

53. With regard to the concern expressed by the Committee about indications of racism on the part of members of the police and the Civil Guard (para. 205), the reader is referred to the report prepared by the General Directorate of the Civil Guard and the General Directorate of Police (Training and Development Division and Aliens and Racism Section, annex 10) describing the interest shown in implementing a human rights and non-discrimination training plan and in adopting initiatives aimed at making the members of the police and the Civil Guard aware of the importance of avoiding racist attitudes.

54. One of the activities carried out in this area was the negotiation by the General Directorate of the Civil Guard of an agreement with the Youth Institute for the training of its members under the age of 21, which includes the study of offences related to racism. The reader is also referred to the relevant activities carried out by the Spanish Committee as part of the commemoration of the European Year against Racism (annex 6).

55. Despite the foregoing, the report of the Defender of the People (annex 11) notes that improper treatment of foreigners continues among the security forces, which at times fail to make a distinction between an alleged offender and a foreigner who is in fact committing a minor offence subject to an administrative penalty, even one involving expulsion.

56. For a discussion of the socio-economic situation of the Gypsy population, see the corresponding report by the Subdirectorate for Social Service Programmes of the Ministry of Labour and Social Affairs and the Madrid Provincial Education Directorate (annex 7).

57. Regarding the situation of Muslim residents of Ceuta and Melilla, the reader is referred to the report of the General Directorate for Domestic Policy of the Ministry of the Interior mentioned in the discussion of article 5 of the Convention and to a note issued by the Directorate in response to a questionnaire by the European Commission against Racism and Intolerance (ECRI) dealing specifically with this question (annex 5).

58. The report notes that long-standing residents of Ceuta and Melilla have been provided with identity and residence cards. For historical reasons, their documentation is different from that of other foreigners, since they were born in Spanish territory or are descendants of foreigners born in Spain.

59. With regard to the current situation in Ceuta and Melilla, see the comprehensive report prepared by the relevant Government departments, the report of the General Subdirectorate for the Promotion of Migration and Refugee Programmes on the situation of immigrants in Ceuta and Melilla and the Sub-Saharan Refugee Hosting and Employment Programme (annex 12).

60. In respect of training for members of the security forces in the avoidance of racial discrimination, the reader is referred to the information provided earlier about the training given as part of their regular programme and through extra-curricular activities (seminars, lectures, etc.).

61. In connection with paragraph 208 of the concluding observations on Spain's 1996 report, mention should be made of a new development, Act No. 1/98 of 7 January establishing the linguistic policy for the Catalonia Autonomous Community (see annex 15), whose main objectives, as stated in its preamble, are to strengthen the standardization process in the areas of administration and teaching, adapt the regulations governing the media and cultural industries to modern-day needs and establish language standards in the socio-economic field. Through the Act, which supersedes Act No. 7/83, Catalonia has made further progress in linguistic standardization, culminating in the laws governing linguistic standardization in the Autonomous Communities having their own language, the constitutionality of which was upheld by the Constitutional Court in judgements Nos. 82, 83 and 84 of 24 June 1986.

62. In the above-mentioned judgements, the Constitutional Court lays the groundwork for a doctrine which it will go on to develop in specific sectors, according to which article 3 of the Constitution and the rules governing it grant competence which is not spelled out in articles 148 and 149 of the Constitution, but which the Constitutional Court has characterized as "devolution of competence", "mandate" or even "linguistic competence" in respect of regulations governing the scope and effects of the joint official status regime (Constitutional Court judgements Nos. 82, 86, 123788, 567/90 and 337/94) and which involves a mandate for the relevant Autonomous Government bodies to adopt the measures needed to ensure knowledge of both languages (language of the Autonomous Communities and Spanish (Castilian)) and guarantee full equality with regard to the linguistic rights and duties of citizens, as well as the right to use official languages in daily life or official proceedings (judgement No. 87/97).

63. Interaction between the Autonomous Communities' responsibilities in the area of linguistic standardization and the Government's sectoral responsibilities means that a balance has to be achieved. In principle, "the Autonomous Communities may determine the extent of the joint official status regime deriving immediately from the Constitution and from their own statute of autonomy and the role of the Government is to organize these regulations as they affect its own agencies" (Constitutional Court judgement No. 82/86).

64. In line with this attempt to achieve balance, the Constitutional Court has indicated that it is necessary to "reconcile two fundamental premises: on the one hand, that the body holding substantive competence is also entitled to establish rules for the use of language in this specific area, not only with regard to organizational matters and internal functioning, but also with regard to the Government's relationship with the public. In such cases, however, the Autonomous Communities having a language other than Spanish (Castilian) do not fall outside the scope of these regulations, as their constitutional and statutory mandate to adopt standardization measures and, in particular, to make rules governing the regime of the joint official status of languages authorizes them to determine the general consequences deriving from the official nature of a language which the competent bodies must respect when specifying, in their areas of responsibility, the conditions for the use of languages and when taking specific measures to comply with the consequences deriving from joint official status and the requirements of standardization (judgement No. 87/97).

65. In the light of this doctrine, on considering Act No. 1/98 of 7 January 1998, the different ministerial departments and the Defender of the People raised some objections to certain of its aspects, which were considered to border on unconstitutionality. Following talks with the Generalitat de Cataluña on this subject, it was decided not to file an action for unconstitutionality in the Constitutional Court.

66. Where the Ministry of Justice is concerned, for example, although it was initially thought that article 17, paragraphs 1 and 2, of the Act might be contrary to the competence assigned to the Government by article 149, paragraph 1 (8), of the Constitution ("Organization of public registers and instruments"), it was subsequently deemed inadvisable to challenge the Act's constitutionality, as amendments to the national regulations governing public registers are currently being considered and, if adopted, would have the same practical result as the Catalonian law (i.e. bilingual versions of entries in public registers).

67. Although, as stated earlier, some of its articles might give rise to extensive debate, article 3 on official languages in Catalonia may be taken as representative of the act as a whole; it reads as follows:

> "Official languages;
>
> 1. Catalan is the official language of Catalonia, as is Spanish (Castilian).
>
> 2. As official languages, Catalan and Spanish (Castilian), may be used without distinction by citizens in all public and private activities without discrimination. Legal instruments in either of the two official languages are fully valid and effective as far as the language is concerned."

68. We trust that the proper implementation of the Act will help prevent any problems that may arise in this regard.

69. As to the status of neo-Nazi and other extreme-right organizations which spread racist ideas (para. 209), see the discussion of article 4 of the Convention (annex 9).

C. Suggestions and recommendations

70. This report was prepared on the basis of the suggestions and recommendations made by the members of the Committee on the Elimination of Racial Discrimination following their consideration of Spain's report in 1996 (paras. 213-218). Its aim was to provide an account of the adoption in Spain of measures designed to curb and punish racist and xenophobic acts and of initiatives carried out by government bodies in cooperation with non-governmental organizations to raise Spanish society's awareness of the importance of eliminating such offences.

List of Annexes

1. Statistics on population in Spain

2. Autonomous Communities

3. European Union regulations

4. Spanish legislation

   Criminal Code

   Aliens Act and Regulations

   Asylum Act and Regulations

   Act No. 62/78 of 26 December 1978 relating to Judicial Protection of Fundamental Rights

4. bis Right to vote

5. Aliens

6. European Year against Racism

7. Minorities

   School enrolment of Gypsy children

   Additional material on article 2: racial discrimination affecting the Gypsy community

   Information booklets on the Roma/Gypsies

8. Judiciary

   Office of the Attorney-General of the Nation

   Provincial High Courts - Affirmative decisions

   Provincial High Courts - Negative decisions

9. Associations Register

10. Security forces

    Training (Civil Guard)

    Police (Report of the Aliens and Racism Section)

    Police (Racist and xenophobic acts in 1996 and 1997)

11. Defender of the People

12. Ceuta and Melilla

Report of the Office for Matters relating to Ceuta and Melilla

Report on the situation of the Muslim population in Ceuta and Melilla

Hosting and Employment Programme for Sub-Saharan immigrants in Ceuta and Melilla

13. NGOs

Report on immigration and integration policies (Caritas-Gerona)

14. Education

Report of the Madrid Provincial Education Directorate on the Compensatory Education Programme

Report of the Department of Education and Vocational Training

15. Act relating to Linguistic Policy in Catalonia

16. European Seminar on the "Role of the media in combating intolerance, racism and xenophobia", 24 and 25 March 1998.